

Judge Robb, cont.

Judicature Society, a Master Fellow of the Indiana State Bar Foundation and a Senior Distinguished Fellow of the Indianapolis Bar Foundation. She is a frequent speaker on legal topics for attorneys, other judges, and professional, civic and community organizations.

Judge Robb was Founding Chair of Governor Bowen's Commission on the Status of Women; was a recipient of a 1993 Indiana State Bar Association's "Celebrating 100 Years of Women in the Legal Profession" award; the 2001 Maynard K. Hine distinguished alumni award given in recognition of support and service to IUPUI and Indiana University; the 2004 Bernadette Perham "Indiana Women of Achievement" Award, bestowed by Ball State University to honor of one of their outstanding professors; the 2005 Indiana State Bar Association's Women in the Law Recognition Award; the 2006 Tippecanoe County YWCA Salute to Women "Women of Distinction" Award; the 2007 Warren G. Harding High School,

Warren, Ohio, Distinguished Alumni Award; the 2010 Indiana University Alumni Association President's Award, a 2010 Indiana Lawyer Distinguished Barrister Award, the 2011 Indianapolis Bar Association Women and the Law Committee's Antoinette Dakin Leach Award and the 2011 David Hamacher Award from the Appellate Practice Section of the Indiana State Bar Association.

Judge Robb chairs the Supreme Court Task Force on Family Courts and is involved in several projects to benefit the Indiana legal system. She also chaired the Supreme Court task force for the development of Trial Court Local Rules, has also served as a member of the Indiana Board of Law Examiners, the Governance Committee of the Supreme Court IOLTA (Interest on Lawyer Trust Account) Committee; the Federal Advisory Committee on Local Rules for the Federal Court for the Northern District of Indiana; and the Federal Advisory Committee for the Expediting of Federal Litigation.

Judge Robb authored "Reflections of

Baseball, Life and the Law" in the Indiana State Bar Association's journal, *Res Gestae* and "Running Bases, Winning Cases: Why the Grand Old Game of Baseball is like the legal profession" in the ABA's journal. She also authored a chapter on Supreme Court Justice Leonard Hackney in, *Indiana Supreme Court Justices*, and co-authored a chapter, "From Juvenile Courts to Family Courts," in *Essays on Indiana Legal History*.

In addition, she serves on the ABA Committee that accredits law schools and chaired the 2010 ABA's Appellate Judges Council-Appellate Judges Education Institute's national Summit for Judges, lawyers and Staff attorneys. Judge Robb is an elected member of the American Law Institute (ALI).

Judge Robb was retained on the Court of Appeals in 2000 and 2010, is married to a professor at Purdue University. Their son, a graduate of the United States Naval Academy, is a lieutenant on active duty in the United States Navy.

Judge Bradford, cont.

Initiative, which resulted in a comprehensive yet responsible reduction of juvenile pretrial incarceration in Marion County that is now a statewide model.

Before joining the bench, he was recruited by Marion County Prosecutor Scott Newman as Chief Trial Deputy, in which capacity he managed a staff of more than 100 attorneys for two years. He also served five years as an Assistant United States Attorney for the Southern District of Indiana, where he prosecuted major felony drug cases under United States Attorney Deborah J. Daniels. He was in private legal practice from 1986 to 1991.

A native Hoosier, Judge Bradford earned a B.A. in labor relations and personnel management from Indiana University-Bloomington in 1982 and his J.D. from Indiana University School of Law-Indianapolis in 1986. He is the Court of Appeals' liaison to the

Indiana Judges Criminal Instructions Committee, which provides guidance to judges on jury instructions in criminal cases, and he is a former member of both the Indiana Judges Criminal Policy Committee and the Board of Directors of the Indiana State Judicial Conference.

Judge Bradford is a Distinguished Senior Fellow of the Indianapolis Bar Association and a member of the Marion County Bar Association, Kosciusko County Bar Association, Indiana State Bar Association, American Bar Association, and the Sagamore Inn of Courts. He has taught Indiana Continuing Legal Education Foundation trial practice seminars for more than 10 years and also teaches Forensic Science and the Law at Indiana University-Purdue University Indianapolis, where he is an adjunct instructor.

Judge Bradford is well versed in contemporary technology and media issues, having served on the Judicial Technology and Automation Commit-

tee (JTAC), helping to draft the state judiciary's policies on technology and case management. From 2005 to 2007, he hosted "Off the Bench with Judge Cale Bradford," a legal commentary program on Marion County's government access network.

He frequently lectures on a wide range of legal topics and in 2012 will serve as a Vice President of the Indianapolis Bar Association and on the Indiana State Bar Association Appellate Practice Section Executive Committee.

Judge Bradford is a former director of the John P. Craine House in Indianapolis, a residential alternative to incarceration for women offenders with preschool-aged children. He is a former advisory board member of the Lawrence Youth Football League and has long been active at Castleton United Methodist Church.

He and his wife, Sam, a full-day kindergarten teacher, have five adult children.

Appeals on Wheels

The Court of Appeals hears oral arguments across Indiana to enable Hoosiers to learn more about the judiciary's indispensable role in Indiana government. Since its 2000-2001 centennial, the court has held more than 400 "traveling oral arguments" at high schools, colleges, law schools and other venues. This will be the court's sixth *Appeals on Wheels* event this year and its 10th DePauw visit in the last 11 years.

SYNOPSIS

In May 2013, Mike Winters was a corporal on the Evansville Police Department with approximately 31 years of service. He also worked in the Evansville Vanderburgh School Corporation's Academy for Innovative Studies.

On May 16, 2013, while working at the Academy, Winters entered a classroom to calm unruly students serving in-school suspension. The students started talking about fighting, and Winters tried to change the subject. When one of the students said that he would fight someone smaller than himself, Winters briefly grabbed the student's crotch and asked, "What would you do now?" Based on this incident, the Department's chief issued a personnel order recommending that Winters be suspended without pay for 21 days and then terminated from employment.

Winters appealed this recommendation and requested a hearing before the City of Evansville's Police Merit Commission. After the hearing, the Commission found Winters guilty on seven out of eight counts alleged in the personnel order and voted 2-1 to affirm the recommended suspension and termination.

Winters filed a complaint against the City appealing the Commission's decision. The trial court granted summary judgment in favor of the City.

On appeal, Winters argues that the Commission's decision to terminate his employment was arbitrary and capricious and lacked substantial supporting evidence. Winters also argues that the Commission members were biased, terminated him based on facts outside the record, and denied him due process.

Court of Appeals Mission Statement

To serve all people by providing equal justice under law.

Court of Appeals of Indiana

Hearing oral argument at

DePauw University

Wednesday, March 18, 2015 @ 1 p.m.



Winters v. City of Evansville

82A01-1409-CT-378

On Appeal from Vanderburgh Circuit Court

The Honorable David D. Kiely, Judge

ATTORNEYS FOR THE PARTIES

For the Appellant

Charles Berger was born and raised in Evansville. After graduating from the University of Evansville in 1969 he attended Indiana University School of Law-Indianapolis and graduated *cum laude* in 1972. He began practicing law with his father, Sydney Berger, at the Evansville firm of Berger & Berger. Charlie has been a trial and appellant litigator his entire legal career. His practice principally consists of personal injury and labor law. He was a deputy prosecutor for over 20 years and successfully prosecuted a capital penalty case, *State of Indiana v. Jeffrey Weisheit*, which was recently upheld 5-0 by the Indiana Supreme Court. He was previously a member of the Indiana Judicial Nominating and Disciplinary Commission and currently serves on the Indiana Supreme Court Rules Committee. He has argued cases in the 6th, 7th, and District of Columbia U.S. Circuit Courts of Appeal and is also admitted the U. S. Supreme Court. Upon nomination, Charlie won the Indiana Trial Lawyer of the Year award for 2014.

For the Appellee

Evansville native **Clay Havill** earned a BS in accounting in 2002 at the University of Evansville and studied abroad at Harlaxton College in Grantham, England in 2000. He attended Indiana University School of Law-Indianapolis, where he was a Moot Court finalist in 2006 and graduated *cum laude* in 2007. Mr. Havill is a partner at ZSWS and has served as litigation counsel and assistant attorney for the City of Evansville since 2012. He is admitted to practice in Indiana and in the U.S. District Court’s northern and southern districts of Indiana. Mr. Havill played Division 1 soccer at Evansville, where he was an Academic All-American in 2001. He is vice chairman of the board of WNIN public broadcasting and serves on the board of directors of the Evansville Bar Association and the University of Evansville’s Harlaxton Society. He and his wife, Brooke, have three children, whose soccer, basketball and baseball activities keep their father busy coaching.

What happens after oral argument?

After oral argument, the judges confer to decide the outcome. A designated writing judge drafts an opinion for the others’ review. Final language may involve several drafts and significant collaboration. Generally, opinions affirm or reverse lower court rulings in whole. But some affirm in part, some reverse in part, and some do both. Not infrequently, the opinion instructs the trial court about the next appropriate course of action. Many opinions are unanimous, although non-unanimous decisions (2-1) are not uncommon. Dissenting judges usually express their views in a separate opinion that becomes part of the permanent record of the case. Judges might also write separate, concurring opinions that emphasize different points of law or facts than the main opinion. No rules or laws govern how fast the court must issue an opinion. But the court strives to decide cases within four months of receiving all briefs, transcripts and other records. Once issued, all opinions are published on *www.courts.in.gov* and maintained in the permanent records of the Clerk of Appellate Courts. Parties can appeal decisions of the Court of Appeals to the Indiana Supreme Court by filing a petition to transfer within a prescribed number of days. But transfer is not automatic; the Supreme Court can grant or deny transfer with or without giving a reason. If the petition is denied, the Appeals Court decision stands.

When we were young

■ Six of the court’s first 19 judges served in the Civil War, all as Union soldiers or officers. Judge Posey Kime, born 1896, was the first to serve in WW1.

■ Nine Court of Appeals judges have later served the Indiana Supreme Court, including current Justice Robert D. Rucker.

■ Judge Frank M. Powers served just 33 days. The longest serving judge by far is Patrick D. Sullivan Jr., at more than 16,000 days. He retired in 2007 but still serves as a senior judge.

■ One of the five original members of the court, Jephtha New, died from a self-inflicted pistol shot in 1892. His term of office was completed by his son, Willard New.

■ Another father-son pair also served on the court: Ralph N. Smith and son Russell W. Smith. An uncle-nephew pair also served: Edgar D. Crumpacker and nephew Harry L. Crumpacker.

■ Memorably named judges include Henry Clay Fox, Daniel Webster Comstock, Cassius Clay Hadley and Ira Batman.

■ Judge John C. McNutt’s son, Paul McNutt, was Indiana governor from 1933-37 and appointed two judges to the Court.

■ One foreign-born judge attained the court: George L. Reinhard was born in Bavaria in 1843, served in the Civil War, and wrote “The Common Sense Lawyer.”

■ Judge Thomas Faulconer made Indiana history when, as a Marion County judge, he opened his courtroom doors to TV and newspaper cameras for a celebrated murder trial in 1959.

■ Judge Joseph H. Shea resigned his Appeals Court seat in 1916 to become President Woodrow Wilson’s ambassador to Chile.

■ Judge V. Sue Shields was the first woman named to the court, in 1978, and Judge (now Justice) Robert D. Rucker was the first African-American, in 1991.

Today’s Panel of Judges



**The Honorable
Terry A. Crone**

St. Joseph County

Terry A. Crone was appointed to the Court of Appeals March 8, 2004 by Governor Joseph E. Kernan. Judge Crone was raised in South Bend. He graduated cum laude from DePauw University with a double major in political science and history in 1974 and graduated from Notre Dame Law School in 1977.

Judge Crone practiced law for nine years, concentrating in areas of civil practice, and served as the St. Joseph County Attorney from 1981 to 1986. In 1986, he was appointed Magistrate of the St. Joseph Circuit Court, where he served until his appointment as Judge of the St. Joseph Circuit Court in 1989.

Judge Crone is a past President of the St. Joseph County Bar Association and a former member of the Board of Managers of the Indiana Judges Association, the Supreme Court Committee on Character and Fitness, and the Alternative Dispute Resolution Committee of the Indiana Judicial Conference.

Judge Crone is a past Chair of the Appellate Practice Section of the Indiana State Bar Association and is a member of the St. Joseph County, Indianapolis, Marion County, Indiana State and American Bar Associations, the American Judicature Society, and the Phi Delta Phi Honorary Legal Society.

Judge Crone is a frequent speaker at legal education programs. He helped found a program in South Bend to familiarize minority high school students with the law and related fields and was a founding member of the South Bend Commission on the Status of African-American Males and the St. Joseph County Coalition Against Drugs.

As Circuit Court judge, he also initiated the first Spanish-speaking program for public defenders in St. Joseph County.

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**The Honorable
Margret G. Robb**

**Tippecanoe
County**

Margret G. Robb was appointed to the Court of Appeals of Indiana in July 1998 by Governor Frank O’Bannon. She holds a B.S. and an M.S. in Business Economics from Purdue University, a Magna Cum Laude J.D. from Indiana University Robert H. McKinney School of Law and is a graduate of the Graduate Program for Indiana Judges. In 2011 she began a three year term as chief judge; the first woman to hold that position in the Court’s more than 100 year history.

Prior to her appointment to the Court, Judge Robb was, for 20 years, engaged in the general practice of law in Lafayette, and served as a Chapter 11, 12 and a standing Chapter 7 Bankruptcy trustee for the Northern District of Indiana. She was a registered family and civil mediator and served as a Tippecanoe County Deputy Public Defender.

She has been an officer of the Indiana State Bar Association, the Fellows of the Indiana State Bar Foundation, Tippecanoe County Bar Association, National Association of Women Judges, the Indiana University School of Law- Indianapolis Alumni Association and the Bankruptcy Section of the Indiana State Bar Association.

She has also been a Board member of the Appellate Judges Council of the American Bar Association, the Indianapolis Bar Association, the Indianapolis Bar Foundation, the Senior Council Section of the Indianapolis Bar Association, the Appellate Practice Section of the Indiana State Bar Association and the Appellate Judges Education Institute.

She was the moderator for the 2005-2006 and Chair for the 2006-2007 Indianapolis Bar Association’s Bar Leader Series, and is a member of the American Bar Foundation, American

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**The Honorable
Cale J. Bradford**

Marion County

Cale J. Bradford has broad experience in both the state and federal legal systems, including service as a Marion County deputy prosecutor, a public defender, a federal prosecutor, a trial court judge and an appellate court judge. In addition, he has six years’ experience in private legal practice.

He was appointed to the Court of Appeals of Indiana by Gov. Mitch Daniels and took his seat on Aug. 1, 2007. In that time, he has participated in more than 2,000 appellate decisions and more than 80 oral arguments. He has written more than 700 majority decisions, including 145 published opinions. Judge Bradford also led a successful effort to encourage the mediation of legal disputes pending before the Court of Appeals, and greatly contributed to creation of the Judicial Retention website that helps voters make informed decisions about Appellate Judges standing for retention election.

Before joining the Appeals Court, he served the people of Marion County for more than 10 years as Judge of the Marion Superior Court, including seven years in the criminal division and three in the civil division. Twice, his colleagues elected him as presiding judge of the Court.

During that tenure, Judge Bradford led two major initiatives that addressed critical criminal justice issues facing Marion County. He chaired the Marion County Criminal Justice Planning Council, which recommended improved responses to jail overcrowding, staffing and budgets. Those efforts led to the end of 30 years of federal oversight of the Marion County Jail and to security improvements at the county’s Juvenile Detention Center. He also led implementation of the Annie E. Casey Foundation Juvenile Detention Alternative

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